

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	
Inventors: PRADHAN, SALIL et al.	: Confirmation No. 7305
	:
U.S. Patent Application No. 09/843,145	: Group Art Unit: 2614
	:
Filed: April 27, 2001	: Examiner: Md S. ELAHEE
For: BROKERING OF INFORMATION ACQUISITION BY DEVICES IN A WIRELESS NETWORK	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: BOARD OF PATENT APPEALS AND INTERFERENCES

CORRECTED BRIEF ON APPEAL

Further to the Notice of Appeal filed October 28, 2008, in connection with the above-identified application on appeal, herewith is Appellant's Brief on Appeal.

To the extent necessary, Appellant hereby requests any required extension of time under 37 C.F.R. §1.136 and hereby authorizes the Commissioner to charge any required fees not otherwise provided for to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is the Hewlett-Packard Development Company, LP. The Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 11445 Compaq Center Drive West, Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no related appeals and/or interferences.

III. Status of Claims

Total Number of Claims in Application

1. There are 43 claims in the application, identified as claims 1-43.

Status of All the Claims

2. Claims canceled: 6, 13, 15-19 and 23-24.
3. Claims pending: 1-5, 7-12, 14, 20-22 and 25-43
4. Claims rejected: 1-5, 7-11, 14, 20-22, 25-37 and 39-43
5. Claims indicated as containing allowable subject matter, but objected to because they depend on a rejected independent claim: 12 and 38

Claims on Appeal

6. Claims on appeal: 1-5, 7-11, 14, 20-22, 25-37 and 39-43

IV. Status of Amendments

All amendments have been entered. There was no amendment after the final rejection of July 28, 2008.

V. Summary of Claimed Subject Matter

Independent claim 1 defines a method of advertising (page 1, first paragraph) comprising: broadcasting an advertisement 34 via a short range link from an advertiser telecommunications device 10 (figures 1 and 2; page 7, second paragraph); receiving the broadcast advertisement on a consumer telecommunications device 12 (figures 1 and 2; page 7, third paragraph); replying to the advertisement by sending a reply message 46 including message data from the consumer device 12 to an advertisement broker device 48 (figure 2; page 9, lines 3 and 4); changing the message data of the reply message 46 at the broker device 48 to derive a changed reply message that includes at least a substantial portion of the reply message (figure 2; page 9, lines 5-9); and communicating the changed reply message from the broker device 48 to the advertiser device 10 (page 9, lines 5-9).

Independent claim 20 relates to a server adapted to act as an advertisement broker device 48 (figure 2; page 9, line 4; page 23, line 8). The server includes an arrangement adapted to (a) receive one of (i) an advertisement message (page 23, line 9; page 9, third paragraph) or (ii) a reply message 46 to an advertisement (page 9, line 4; page 23, lines 9 and 10), and (b) forward the received message to a remote telecommunications device 10 (page 9, line 5; page 23, lines 10 and 11). The arrangement modifies the received message so as to ensure, at least initially, that no telecommunications address of an advertiser (page 9, lines 5-7) or replier to an advertisement is passed with the message that is forwarded by the server (page 23, lines 12-14).

Independent claim 22 relates to a network (figures 1 and 2; page 1, first paragraph) comprising: an advertiser device comprising a first telecommunications device 10 having both a short range transmitter and receiver unit 14a, and a long range telecommunications transmitter and receiver 16a, a memory 19a, and a control processor 18a (page 6, lines 15-19). The memory 19a includes an advertisement (page 7, line 10). A consumer device of the network includes a second telecommunications device 12, having: (a) a short range, piconet transmitter and receiver unit 14b, (b) a long range telecommunications transmitter and receiver unit 16b, (c) a memory 19b, and (d) a

control processor 18b (page 6, lines 15-19). The memory 19b or the processor 18b of the consumer device 12 has an advertisement receiver which, in use, is capable of receiving and storing an advertisement (page 7, third paragraph). The network also includes an advertisement broker device 48 contactable via wireless telecommunications with both the advertiser and consumer devices 10 and 12 (figure 2; page 9, first paragraph). The broker device 48 selectively (a) passes advertiser details to the consumer device in response to triggering, (b) passes consumer details to the advertiser device in response to triggering, and (c) blocks passage of at least one of (i) advertiser details to the consumer device and (ii) consumer details to the advertiser device (page 2, lines 14-18; page 23, lines 12-14; page 24, lines 7-10).

Independent claim 40 is related to a network (figures 1 and 2; page 1, first paragraph) comprising: an advertiser device comprising a first telecommunications device 10 having both a short range transmitter and receiver unit 14a, and a long range telecommunications transmitter and receiver 16a, a memory 19a, and a control processor 18a. The memory includes an advertisement (page 7, line 10). The network of claim 40 also includes a consumer device comprising a second telecommunications device 12, having (a) a short range, piconet transmitter and receiver unit 14b, (b) a long range telecommunications transmitter and receiver unit 16b, (c) a memory 19b, and (d) a control processor 18b (page 6, lines 15-19). The memory 19b or the processor 18b of the consumer device has an advertisement receiver which, in use, is capable of receiving and storing an advertisement (page 7, third paragraph). The network of claim 40 also has an advertisement broker device 48 contactable via wireless telecommunications with both the advertiser and consumer devices 10 and 12 (figure 2; page 9, first paragraph). The broker device 48 selectively (a) passes consumer details to the advertiser device 10 in response to triggering and (b) blocks passage of at least one of (i) advertiser details to the consumer device 12 and (ii) consumer details to the advertiser device 10 (page 2, lines 14-18; page 23, lines 12-14; page 24, lines 7-10). Claim 22 thus includes all the limitations of claim 40, but claim 40 does not include the requirement of claim 22 for the broker device to pass consumer details to the advertiser device in response to triggering.

Claim 4 depends on claim 1 and indicates advertisement 34 is broadcast from a man portable advertiser device 10 (page 6, first sentence of paragraph beginning in middle of page). Claim 5 depends on claim 4 and indicates the advertiser device 10 is a hand-holdable portable device (page 6, first sentence of paragraph beginning in middle of page). Claim 7 depends on claim 1 and states advertiser device 10 does not include its own telecommunications address in its broadcast advertisement (page 2, third full paragraph, penultimate sentence). Claim 14 depends on claim 1 and requires the use of a mobile telephone, personal digital assistant, or other small portable electronic devices for both advertiser device 10 and consumer device 12, both having both piconet short range and long range telecommunication capabilities (page 6, first sentence of paragraph beginning in middle of page; page 7, first full paragraph).

Claim 21 says the arrangement of the server of claim 20 (1) stores the direct telecommunications address of the provider of the message (e.g., device 10 or 12), (2) recalls that address and forwards it to the remote telecommunications device (e.g., device 12 or 10) if a release signal effectively authorizing forwarding of the stored address has been received by the server (page 9, third paragraph).

Claim 29 depends on claim 28 and requires the original text of a reply message to be modified by removing an identifier of consumer 12 (page 9, lines 3-7).

Claim 32 indicates that in the server of claim 20 the advertisement message 34 and/or the reply message 46 includes a telecommunications address and the server removes the telecommunication address from the advertisement data and/or the reply message to ensure that no telecommunication address of the advertiser 10 or replier 12 is passed with the message transmitted by the server (page 9, lines 3-7; page 9, third full paragraph).

Claim 33 depends on claim 1 and indicates additional advertisement information 42 is transmitted from advertiser device 10 to consumer device 12 in response to a request for additional information by the consumer device to the advertisement (first two sentences of paragraph bridging pages 7 and 8).

Claims 37 and 39, respectively dependent on claims 22 and 1, require broker device 48, during passing of details of advertiser 10 to consumer device 12, to block

passage of the address of the advertiser device to the consumer device (page 9, lines 3-7).

Claims 42 and 43, respectively dependent on claims 40 and 22, indicate advertisement broker device 48 blocks passage of both (i) advertiser 10 details to consumer device 12 and (ii) consumer 12 details to advertiser device 10 (page9, third paragraph).

VI. Grounds of Rejection to be Reviewed on Appeal

A. The rejection of claims 1-5, 7-11, 14, 27-31, 33 and 39 under 35 USC 103(a) as being unpatentable over Rautila et al. (US Patent 6,549,625) in view of Suarez (US Patent 5,790,789).

B. The rejection of claims 20, 21 and 32 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Konishi (US Patent 5,301,273).

C. The rejection of claims 22, 25, 26, 37 and 40-43 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Plotnick et al. (US Patent Publication 2002/0178447).

D. The rejection of claim 34 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Plotnick et al. and further in view of Konishi.

E. The rejection of claims 35 and 36 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Suarez further in view of Plotnick et al.

VII. Argument

A. The rejection of claims 1-5, 7-11, 14, 27-31, 33 and 39 under 35 USC 103(a) as being unpatentable over Rautila et al. (US Patent 6,549,625) in view of Suarez (US Patent 5,790,789).

1. Claims 1-3, 8-11, 27, 28, 30, 31

Claim 1 is non-obvious over Rautila and Suarez.

Page 5 of the final rejection alleges Rautila et al. et al. discloses all features of claim 1 except for the requirement for an advertisement broker device to change the message data of a reply message to an advertisement that is sent from a consumer device to the advertisement broker device. The final office action continues by erroneously stating "Suarez teaches changing message data of the reply at the agent [i.e., broker] device (abstract; Fig. 11; Col. 26, lines 56-62)." The examiner erroneously states the agents Suarez discusses are equivalent to a broker device by

saying “agent [i.e., broker] device.” This statement ignores the requirement of claim 1 for an advertisement broker device. A broker, by definition, is one that acts as an agent for others, as in negotiating contracts, purchases, or sales in return for a fee or commission, and a broker device is a device that a broker uses in furtherance of these activities. The statement on page 9, paragraph in the middle the page, is consistent with this definition because it indicates either an advertiser pays the advertisement broker or the interested consumer pays or agrees to pay, or that the broker fee could be shared between the advertiser and the consumer.

The Suarez agents have nothing to do with a broker, and even less to do with an advertising broker. Suarez, at column 9, lines 14 and 15, indicates agents are entities which provide and control the services discussed in the paragraph bridging columns 8 and 9., which states a service is a unit of work, typically embodied in software applications, electronic mail, application systems, software fragments or modules, macros, database procedures, physical actions of individuals, and physical I equipment operation. Column 9, lines 17-24 indicates the Suarez agents provide both interconnectivity and services on behalf of a user or another agent, with some degree of autonomy. As a result, the process flow is incorporated within the computing environment in which the agent is located, the physical attributes of the computing environment into which the agent is incorporated, and specific tasks to be accomplished.

Column 25, lines 17-24 of Suarez indicates the agents exert control over their associated services by manipulating electronic messages between the services. An agent can constrain the types of messages that might originate from a service that a computer associated with the agent provides, such as by controlling conversations between services to ensure correct behavior or to impose scheduling constraints. Such controls and constraints have nothing to do with a broker device or an advertisement broker device.

Further consideration of Suarez provides additional proof that the examiner is incorrect in alleging the Suarez agents are broker devices or advertisement broker devices. The internal structure 104 of the agents Suarez discloses is described in

column 24, lines 1-49, in connection with figure 9. It is there indicated that the internal structure of the Suarez agents includes the following factors relating to the agent:: name, originator, version, status, identifier, domain, creation time, type, state (e.g., active or inactive), description and associations. The agents also include auxiliary table structures 118a-118f which provide prescribed information about the agent. Column 9, lines 40-47, in conjunction with figure 1, indicates communication network 14 includes plural agents 20 to dynamically control services 16 performed by computer host 12 for computer users 13. Column 25, lines 17-32 indicates agents (1) exert control over their associated services by manipulating electronic messages between the services, (2) constrain the types of messages that originate from the service a particular agent provides, (3) constrain the types of messages that are received by the agent from another service, and (4) augment a message from a service without modifying the service application code. From the foregoing, the Suarez agents, such as agents 20 in the communication network 14 of figure 1, deal with the services 16 provided by host computers 12 (operated by users 13) with which the agents are respectively associated; column 9, lines 40-47. Hence the Suarez agents are not broker devices or advertisement broker devices

The examiner proposes to modify "item 26" of Rautila et al. et al. as a result of the destination agent 142 discussed by Suarez at column 26, lines 56-62. Column 26, lines 40-67 of Suarez indicates destination agent 142 is part of a host computer that also includes originating agent 141. Agents 141 and 143 are respectively associated with services 143 and 144. Service 143 identifies the destination or recipient of a message 145a, which originated in the host computer, by identifying the agent 142 (which is in the host computer) corresponding to destination service 144. Originating agent 141 can not manipulate the original message 145 in accordance with defined behavior 146 to generate manipulated message 145b that is then physically delivered from originating agent 141 to destination agent 142. Destination agent 142 further manipulates message 145b in accordance with defined behavior 147. The defined behavior enables destination agent 142 to change or modify message 145b to derive modified message 145c so that the originator of the message is now identified

in message 145c as agent 141 that corresponds to originating service 143. Destination agent 142 then forwards message 145c to destination service 144. Replies 148 to the message, presumably from another host computer, are addressed to originating agent 141 since destination service 144 believes agent 141 to be the originator of the message, so the message path is never directly from one server to another but is always controlled through agents 141 and 142.

The Suarez destination agent 142 is entirely different from "item 26" of Rautila et al. et al. as a comparison of the foregoing discussion of destination agent 142 and the following portions of Rautila et al. et al. that discuss "item 26" reveals.

Column 6, lines 63 and 64 of Rautila et al. indicates database 26, within an IP network including servers, provides information relating to the location of devices or services 25 which are close to broadcast location 16 and mobile terminal 12 from which a user of the mobile terminal receives goods or services after communicating with the mobile terminal including the database. Column 7, lines 46-48 indicates information is transmitted from database 26 to mobile terminal 12. The information is associated with identification information broadcast from position transceiver 14 by link 24 to mobile terminal 12. Column 8, lines 65-67 indicates identification information transmitted by link 24 addresses or identifies particular blocks of data within database 26. Column 9, lines 1-3 indicates the information received from database 26 by network transceiver 46 of mobile terminal 12 enables the user of terminal 12 to obtain more detailed information about the information broadcast by link 24. Column 9, lines 9-11 states identification information transmitted by broadcast location 16 is stored in database 26. Column 9, lines 19-32 indicates information displayed on display 49' of mobile terminal 12 has associated with it information which is transmitted via links 24 and 42 to database 26, to cause more detailed information stored in database 26 to be transmitted back to the users of mobile terminal 12. This operation is stated to facilitate advertisement by obtaining the attention of users of mobile terminal 12. Column 9, line 67-column 10, line 8 discusses checking operations performed by the IP network including a server with database 26 to determine if the user of mobile terminal 12 is an authorized user. Column 10, lines 24-27 states information displayed

on display 49' of mobile terminal 12 is related to the identification information which performs addressing or identifying particular information stored in database 26. Column 10, lines 47-49 is directed to memory map 100, figure 4, of an individual server in the IP network including database 26. Column 7, lines 1-10 indicates the user of mobile terminal 12 sends a requested form of payment to database 26 by using a short message system (SMS) format and the network transmits acknowledgment of payment from database 26 to position transmitter 14, which in turn transmits payment acknowledgment 27' to the user of mobile terminal 12. It is not apparent and the office action fails to indicate how these various aspects of "item 26" of Rautila et al. are in any way related to or compatible with the Suarez destination agent 142.

Item 3, page 2 of the final rejection states "Examiner interprets item 26 of Fig.1 in Rautila et al. as the claimed broker device since both of the devices make reply to an advertisement." A broker, by definition, is one that acts as an agent for others, as in negotiating contracts, purchases, or sales in return for a fee or commission, and a broker device is a device that a broker uses in furtherance of these activities. The statement on page 9, paragraph in the middle the page, is consistent with this definition because it indicates either an advertiser pays the advertisement broker or the interested consumer pays or agrees to pay, or that the brokerage fee could be shared between the advertiser and the consumer. Hence, a broker device is not merely a device that makes a reply to an advertisement. Consequently, the examiner's allegation that item 26 of Rautila et al. et al. is a broker device is incorrect.

The first paragraph on page 3 of the final rejection, in conjunction with column 7, lines 1-10 of Rautila et al. et al., states: "This SMS message is changed to an acknowledgment message [i.e., reply message] and this acknowledgment message includes payment information. It clearly means that the changed reply message to include at least a substantial portion of the reply message (sic)." The initial portion of this paragraph indicates the examiner has construed the SMS message to be the claimed reply message sent from the consumer device (which the examiner construes to be mobile device 12 of the reference) to the advertisement broker device, which the

examiner construes to be database 26 of the reference. There is no basis to conclude the acknowledgment message including payment information that is transmitted by the IP network from the item including database 26 to mobile device 12 includes at least a substantial portion of the reply message. The payment information would appear to be nothing more than a receipt. The examiner has provided no reason why there is a need for the receipt (sent by the item including database 26 via link 27 to transceiver 14, thence via link 27' to mobile device 12) to include a substantial portion of the message that mobile terminal 12 originally sent to the IP network including database 26.

Based on the foregoing the rejection of claim 1 is incorrect.

2. Claims 4, 5, 14

The rejections of claims 4, 5, and 14 incorrectly allege short range transceiver 14 that is part of broadcast location 16, and which the examiner equivocates to the claimed advertiser device, is a man portable or hand-holdable portable device, relying on the showing in figure 1 or column 6, lines 23-47. It is impossible to tell from figure 1 whether transceiver 14, which is part of broadcast location 16, meets these requirements. Column 6, lines 23-47 includes a general description of some parts of the communication system of figure 1 and indicates terminal 12 is a mobile terminal, but never says anything about broadcast location or transceiver 14 having similar attributes. Consequently, the foregoing limitation of claims 4, 5 and 14 is not disclosed by Rautila et al..

3. Claim 7

The final rejection alleges Rautila et al., at figure 3, as well as column 6, lines 48-60 and column 8, line 63-67, discloses the requirement of claim 7 for the advertiser device, which the office action alleges reads on broadcast location 16, does not include its own telecommunication address in its broadcast advertisement that is transmitted from short range transceiver 14 to a consumer telecommunications device, which the examiner has construed as mobile terminal 12. Figure 3 is a diagram of

broadcast location 16, indicating the broadcast location includes N information sources and plural short range transceivers 14. Each information source 50 is associated with a particular position transceiver 14; column 10, lines 9-14. Column 6, lines 48-60 indicates information is broadcast from broadcast location 16 via link 24 to mobile terminal 12, and that this information includes advertisements, and other information that does not appear to be germane to claim 7, such as information relating to making emergency calls, information for providing navigation services to enable a user of mobile terminal 12 to move between positions. Column 8, line 63-67 indicates identification information transmitted by link 24 (that is between broadcast location 16 and mobile terminal 12) addresses or identifies particular data blocks within database 26 of the IP network including the server with the database. Hence, these portions of Rautila et al. do not mention or make obvious the foregoing requirement of claim 7.

4. Claim 29

There is also no consideration or mention in the body of the final rejection of claim 29 which depends on claim 28 (which in turn depends on claim 1) and indicates the original text is modified by removing an identifier of the consumer.

Therefore, the obviousness rejection of claim 29 is further defective.

5. Claim 33

There is no consideration or mention in the body of the final rejection of Claim 33, which depends on claim 1, and requires additional advertisement information to be transmitted from the advertiser device to the consumer device in response to a request for additional information by the consumer device to the advertisement.

Therefore, the obviousness rejection of claim 33 is further defective.

6. Claim 39

The rejection of claim 39 states Rautila et al., at column 10, lines 1-8, 58-64 and column 5, lines 39-51, discloses the claimed requirement for changing a reply message communicated from a broker device to an advertiser device by the broker

device changing the message data sent by the consumer device by deleting some of the message data in the reply message sent by the consumer device to the broker device. Hence, the examiner is, in effect, saying the foregoing parts of Rautila et al. disclose that the server including database 26 deletes some of the message data in a reply message sent by mobile terminal 12 to the IP network including the server with database 26.

Consideration of the foregoing parts of Rautila et al. does not support the examiner's position. Column 10, lines 1-8 indicates the server in the IP network including database 26 checks the signature, decrypts transmission information from mobile terminal 12 and determines if a timestamp is valid. If all this information is verified, the server concludes that the user of mobile terminal 12 is an authorized user and provides the user of terminal 12 with access to the database. Column 10, lines 58-64 indicates information fetched by a server including database 102 is transmitted over communication link 42 to mobile terminal 12 to enable the user of the mobile terminal to learn more about the goods or services or other information associated with information sources 50 of broadcast location 16. Column 5, lines 39-51 essentially repeats what is stated at column 10, lines 1-8. Consequently, the relied on portions of Rautila et al. do not disclose deleting some of the message data in a reply message sent by mobile terminal 12 to the IP network including the server with database 26.

B. The rejection of claims 20, 21 and 32 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Konishi (US Patent 5,301,273).

1. Claim 20

Claim 20 is non-obvious over Rautila and Konishi.

The rejection of claim 20 alleges Rautila et al. discloses a server which acts as an advertisement broker device. As discussed *supra* in connection with the rejection of claim 1, the server of Rautila et al. which includes database 26 is not an advertisement broker.

The rejection of claim 20 admits the server of Rautila et al. including database 26 does not include the limitation of claim 20 that requires the server to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is forwarded by the server to the remote telecommunications device. The office action incorrectly alleges Konishi discloses this feature and that it would have been obvious to include it in Rautila et al..

The first full sentence on page 9 of the final rejection states: "Konishi et al. teaches the bridge unit (fig.1, item 20a, fig.2) [i.e., server] to ensure, at least initially, that no telecommunication address of an advertiser or replier to an advertisement is passed with the message that is transmitted by the server (abstract; col.2, lines 52-58)." The statement is wrong because bridge unit 20a does not ensure, at least initially, that no telecommunication address of an advertiser or replier to an advertisement is passed with a message that is transmitted by the bridge unit.

In Konishi et al., bridge 20a includes branch local area network (LAN) interfaces 21a1 and 21a2, trunk LAN interface 22a and internal bus 23a. The branch LAN interfaces 21a1 and 21a2 respectively transmit and receive messages from stations 11a1 and 11a2; column 3, lines 53-58. Each LAN interface includes an address translation table 42, timer 43, memory 44, and processor 41, as illustrated in figure 2; column 4, lines 3-8. Address translation table 42 registers address information and bridge port addresses corresponding to the addresses of stations 11 (figure 1) that are connected to LANs 20. Timer 43 executes an interrupt to processor 41 periodically.

Each interrupt causes updating of the addresses of stations 11 in address translation table 42; column 4; column 4, lines 11-18. Memory 44 stores a message exchanged between the middle or low-speed local area networks 10a1 and 10a2 and high speed trunk LAN 30 to which bridges 20a-20d are connected, as illustrated in figure 1, and described at column 3, lines 42-52 and column 4, lines 18, 19. Each of bridges 20b-20d is similarly configured.

In the prior art to Konishi et al., as set forth in column 1, lines 12-66 a station, similar to stations 11, which has not received or transmitted a message for a predetermined time interval is recognized as a moved or failed station and address information for such a moved or failed station is deleted from an address translation table (similar to table 42 of Konishi et al.) immediately upon lapse of the predetermined time interval. In the prior art to Konishi et al. after the address information has been deleted from the translation table, a message directed to the failed or moved station is transmitted by broadcast and to branch LANs not associated with the current message transmission. As a result, the load of the network is undesirably increased.

The purpose of Konishi et al. is to prevent such undesirable increases in the network load due to transmission of messages to that propagate to the branch LANs but never reach the targeted moved or failed stations. To overcome this problem, Konishi et al. proposes to delay deletion of the address of the failed or moved station from the address translation table to a time beyond the lapse of the predetermined time interval; column 2, lines 33-37 and column 13, line 67-column 14, line 3. When a message is to be transmitted to a destination station represented by a station address which has not been used for a long time interval, message transmission is performed using the address information that is retained in the address translation table; that is, when a message is to be transmitted to a station represented by such a station address, the message is transmitted first to the destination station by using the address; column 2, lines 37-42 and column 14, lines 3-7. If a response message is not received at this time from the destination station, the address information is then deleted from the address transformation table 42 and the message is retransmitted by

broadcast, so such a message is not transmitted to branch LANs not associated with the current message transmission; column 14, lines 7-17.

There is no reason why one of ordinary skill in the art would have modified Rautila et al. as a result of Konishi et al. to meet the claim 20 requirement for modification of an advertisement message or a reply message to an advertisement to ensure that no telecommunication address of an advertiser or replier to an advertisement is passed with the message that is forwarded by the server which acts as an advertisement broker device. Rautila et al. is only interested in communicating information between the IT network including databases 26 and mobile terminal 12 and/or broadcast location 16, wherein the network responds to inquiries from the mobile terminal and/or broadcast location. The address information which is deleted from address table 42 in the Konishi et al. system is internal address information for LANs 20a-20d, which would never be transmitted from the IP network including database 26 to mobile terminal 12 or broadcast location 16 because it would be meaningless and confusing to the user of the mobile terminal. Further, Konishi et al. is interested in reducing traffic within the local area network of figure 1 by preventing unnecessary data transmission on the LANs. There is no similar objective in reducing traffic between the network including database 26 and mobile terminal 12 and/or broadcast location 16 of Rautila et al.. To the contrary, the owners of broadcast location 16 and database 26 desire to have as much traffic as possible to increase commerce between these owners and the users of mobile terminals 12.

The examiner alleges one of ordinary skill in the art would have modified Rautila et al. as a result of Konishi et al. because removing an address from a message enables the message to be broadcast again. No explanation is given as to why removing an address from a message enables a message to be broadcast again. There is nothing in Konishi et al. to indicate a message that is about to be deleted because a station has moved or failed or is infrequently used is broadcast "again" if there is no response after the predetermined time interval has lapsed. Also, there is no reason why a message transmitted from the IP network including a server with database 26 would be transmitted without an address to mobile terminal 12 or

broadcast location 16. Such a message would not be processed by the mobile station or broadcast location because it has no destination address.

Claim 20 is therefore non-obvious over Rautila and Konishi.

2. Claim 21

No consideration is given in the final rejection to the limitations of claim 21. Claim 21 indicates the arrangement of the server of claim 20 stores the direct telecommunications address of a provider of the message and recalls that address and forwards it to a remote telecommunications device if a release signal effectively authorizing forwarding of the stored address has been received by the server.

Because no consideration was given to the limitations of claim 21, the Examiner has failed to establish a *prima facie* case of obviousness.

3. Claim 32

No consideration is given in the final rejection to the limitations of claim 32.

Claim 32 indicates the advertisement and/or reply message includes a telecommunications address in the server of claim 20 to remove the telecommunication address from the advertisement data and/or the reply message to ensure that no telecommunication address of the advertiser or replier is passed with the message transmitted by the server.

Because no consideration was given to the limitations of claim 32, the Examiner has failed to establish a *prima facie* case of obviousness.

C. The rejection of claims 22, 25, 26, 37 and 40-43 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Plotnick et al. (US Patent Publication 2002/0178447).

1. Claims 22, 25, 26, 40, 41

Claim 22 is non-obvious over Rautila and Plotnick.

In this rejection, the server with database 26 of Rautila et al. is again stated to be an advertisement broker device. This statement is wrong for the reasons discussed *supra* in connection with claim 1.

The examiner admits Rautila et al. does not disclose blocking passage of consumer details to the claimed advertiser device, which the examiner reads on broadcast station 16 of Rautila et al.. The examiner alleges Plotnick et al. discloses this feature at page 6, paragraph 0082 and that it would have been obvious to one of ordinary skill in the art to have modified Rautila et al. so details of the consumer are not coupled to broadcast station 16. The office action alleges the motive for making the modification is to prevent direct contact between the advertiser and consumer so sensitive information is not disclosed due to privacy concerns.

The relied on portion of Plotnick et al. is concerned with reporting back viewing statistics and providing advertiser information with respect to the effectiveness of advertising on a personal video recorder (PVR). To protect the privacy of the users of the PVR, the advertiser may not be provided with any user identifiable information, and in some cases will only know the number of individuals or households in a designated market segment, to enable the advertiser to create specific market segments without revealing personal information of the users of the PVRs.

Based on the foregoing, Plotnick et al. is not related to an advertisement broker device that passes advertiser details to a consumer device and passes consumer details to an advertiser device, to block passage of consumer details to the advertiser device. Instead, Plotnick et al. merely is arranged so there is no transmission of consumer details from a personal video recorder to an advertiser device. In other

words, the data that are originally loaded into the personal video recorder do not include the name of the user of the recorder.

In Rautila et al., the identification of the user of mobile terminal 12 is transmitted to the IP network including database 26. There is no disclosure in either reference of how Rautila et al. would eliminate this identification information in the transmission from the IP network including database 26 back to broadcast location 16. In addition, there is no need to eliminate the identity of mobile terminal user 12 from broadcast location 16 because the user of mobile terminal 12 is in very close proximity to broadcast location 16, since both are within broadcast area 18, having an extent only sufficient to enable propagation of low power RF, such as a Bluetooth transmission, or infrared communication; column 6, lines 24-29 and 34-40. In addition, to enable the IP network including database 26 to transmit an acknowledgment of payment by the user of mobile terminal 12 to the user of that terminal, the identification of the user of the terminal is transmitted from the IP network via link 27 short range transceiver 14 of broadcast location 16. Short range transceiver 14 then retransmits the acknowledgment via link 27' to mobile terminal 12; column 6, lines 5-8. If the identification of mobile terminal 12 were not transmitted to broadcast location 16, the broadcast location would be unable to transmit the acknowledgment to mobile device 12. Consequently, one of ordinary skill in the art would not have modified Rautila et al. so the server including database 26 blocks the identity of the user of mobile terminal 12 from broadcast location 16.

Claim 40 rises and falls with claim 22 because claim 22 includes all the limitations of claim 40.

2. Claim 37

The rejection of claim 37 based on Rautila et al. and Plotnick et al. is incorrect because the relied upon portion of Plotnick et al., paragraph 0017, does not appear on page 2, and merely includes a reference to an application filed February 28, 2001. Hence, this rejection is obviously wrong.

3. Claims 42, 43

The rejection of claims 42 and 43, based on Rautila et al. in view of Plotnick et al., admits neither reference discloses blocking passage of advertiser details to a consumer device. The examiner has taken Official Notice that blocking passage of advertiser details to a consumer device is well-known in the art. The examiner must supply a reference to support this position. The rationale set forth in the office action for making this modification, that is, to protect privacy of an advertiser to a consumer, is illogical. Advertisers spend billions of dollars each year to advise consumers of their products and corporate identification.

D. The rejection of claim 34 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Plotnick et al. and further in view of Konishi.

In view of the allowability of base claim 22 over Rautila and Plotnick, the obviousness rejection of dependent claim 34 over Rautila, Plotnick, and Konishi has been overcome.

E. The rejection of claims 35 and 36 under 35 USC 103(a) as being unpatentable over Rautila et al. in view of Suarez further in view of Plotnick et al.

In view of the allowability of base claim 1 over Rautila and Suarez, the obviousness rejection of Rautila, Suarez, and Plotnick has been overcome.

Reversal of the rejection is in order.

Respectfully submitted,

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VIII. Claims Appendix

The claims on appeal are (claims 6, 13, 15-19, 23, and 24 have been cancelled; claims 12 and 38 were indicated as containing allowable subject matter):

1. A method of advertising comprising:

broadcasting an advertisement via a short range link from an advertiser telecommunications device;

receiving the broadcast advertisement on a consumer telecommunications device;

replying to the advertisement by sending a reply message including message data from the consumer device to an advertisement broker device;

changing the message data of the reply message at the broker device to derive a changed reply message that includes at least a substantial portion of the reply message; and

communicating the changed reply message from the broker device to the advertiser device.

2. The method according to claim 1 in which the advertisement is broadcast to a man portable consumer device.

3. The method according to claim 2 in which the consumer telecommunications device is a hand-holdable portable and pocketable device.

4. The method according to claim 1 in which the advertisement is broadcast from a man portable advertiser device.

5. The method according to claim 4 in which the advertiser device is a hand-holdable portable device.

7. The method according to claim 1 in which the advertiser device does not include its own telecommunications address in its broadcast advertisement.

8. The method according to claim 7 further including the step of including the telecommunications address of the broker device in the advertisement broadcast by the advertiser device.

9. The method according to claim 1 further including the steps of including one or more advertisement classification codes in the advertisement broadcast by the advertiser device, and comparing the one or more advertising classification codes with allowable advertisement codes in an advertisement screening operation by the consumer device.

10. The method according to claim 9 in which the consumer device stores or brings to the attention of a user only those advertisements which are passed by the screening operation that the consumer device performs on the broadcast advertisements that it receives.

11. The method according to claim 1 in which the consumer device replies to an advertisement via long range telecommunications to the advertiser device.

14. The method according to claim 1 comprising using a mobile telephone, personal digital assistant, or other small portable electronic devices for both the advertiser device and the consumer device, the advertiser and consumer devices both having both piconet short range and long range telecommunication capabilities.

20. A server adapted to act as an advertisement broker device, the server including an arrangement adapted to (a) receive one of (i) an advertisement message or (ii) a reply message to an advertisement, and (b) forward the received message to a remote telecommunications device; the arrangement being adapted to modify the received message so as to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is forwarded by the server.

21. The server according to claim 20 wherein the arrangement is adapted to store the direct telecommunications address of the provider of the message and to recall that address and forward it to the remote telecommunications device if a release signal effectively authorizing forwarding of the stored address has been received by the server.

22. A network comprising: an advertiser device comprising a first telecommunications device having both a short range transmitter and receiver unit, and a long range telecommunications transmitter and receiver, a memory, and a control processor, the memory including an advertisement;

a consumer device comprising a second telecommunications device, having: (a) a short range, piconet transmitter and receiver unit, (b) a long range telecommunications transmitter and receiver unit, (c) a memory, and (d) a control processor, the memory or the processor of the consumer device having an advertisement receiver which, in use, is capable of receiving and storing an advertisement;

and an advertisement broker device contactable via wireless telecommunications with both the advertiser and consumer devices, the broker device being adapted to selectively (a) pass advertiser details to the consumer device in response to triggering, (b) pass consumer details to the advertiser device in response to triggering, and (c) block passage of at least one of (i) advertiser details to the consumer device and (ii) consumer details to the advertiser device.

25. The network according to claim 22 in which the broker device is connectable with the advertiser device and the consumer device via long range wireless telecommunications.

26. The network of claim 22 wherein each the telecommunications devices includes a hybrid mobile telephone.

27. The method according to claim 1, wherein the change to the reply message includes augmenting the reply message.

28. The method according to claim 1, wherein the change to the reply message includes modifying original text or the reply message.

29. The network according to claim 28, wherein the original text is modified by removing an identifier of the consumer.

30. The method according to claim 1, wherein the broker device is interposed in a telecommunications link between the advertiser device and the consumer device.

31. The method according to claim 1, wherein the reply message communicated from the broker device to the advertiser device is changed by the broker device changing the message data sent by the consumer device by augmenting the message data in the reply message sent by the consumer device to the broker device.

32. The server of claim 20, wherein in at least one of the advertisement message or the reply message includes a telecommunications address and the server is adapted to remove the telecommunication address from at least one of the advertisement data and the reply message to ensure that no telecommunication address of the advertiser or replier is passed with the message transmitted by the server.

33. The method of claim 1, further including transmitting additional advertisement information from the advertiser device to the consumer device in response to a request for additional information by the consumer device to the advertisement.

34. The network of claim 22, wherein the advertisement broker device includes a server adapted to receive one of (i) an advertisement message or (ii) a reply message to an advertisement and to forward the received message to a remote telecommunications device; the server being adapted to modify the received message so as to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is transmitted by the server.

35. The method according to claim 1 wherein the broker device changes the message data by blocking passage of at least one of (i) advertiser details to the consumer device and (ii) consumer details to the advertiser device.

36. The method according to claim 35 wherein the broker device changes the message data by blocking passage of the address of the advertiser device to the consumer device.

37. The network of claim 22 wherein the broker device is arranged, during passing of details of the advertiser to the consumer device, to block passage of the address of the advertiser devices to the consumer device.

39. The method according to claim 1, wherein the reply message communicated from the broker device to the advertiser device is changed by the broker device changing the message data sent by the consumer device by deleting some of the message data in the reply message sent by the consumer device to the broker device.

40. The network comprising: an advertiser device comprising a first telecommunications device having both a short range transmitter and receiver unit, and a long range telecommunications transmitter and receiver, a memory, and a control processor, the memory including an advertisement;

a consumer device comprising a second telecommunications device, having (a) a short range, piconet transmitter and receiver unit, (b) a long range telecommunications transmitter and receiver unit, (c) a memory, and (d) a control processor, the memory or the processor of the consumer device having an advertisement receiver which, in use, is capable of receiving and storing an advertisement; and

an advertisement broker device contactable via wireless telecommunications with both the advertiser and consumer devices, the broker device being adapted to selectively (a) pass consumer details to the advertiser device in response to triggering and (b) block passage of at least one of (i) advertiser details to the consumer device and (ii) consumer details to the advertiser device.

41. The network of claim 40 wherein the broker device is also adapted to selectively pass advertiser details to the consumer device.

42. The network of claim 40 wherein the advertisement broker device is adapted to block passage of both (i) advertiser details to the consumer device and (ii) consumer details to the advertiser device.

43. The network of claim 22 wherein the advertisement broker device is adapted to block passage of both (i) advertiser details to the consumer device and (ii) consumer details to the advertiser device.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.